

Feb 27, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY L LAWRENCE,
Movant,
-vs-
UNITED STATES OF AMERICA,
Respondent.

No. 2:08-CR-0177-WFN-1
ORDER DENYING § 2255 MOTION

Before the Court is Movant's second 28 U.S.C. § 2255 Motion to Vacate, Set Aside or Correct Sentence. ECF No. 164. The Motion is submitted by Mr. Lawrence, who is appearing *pro se* in these proceedings.

Mr. Lawrence filed a § 2255 Motion on September 9, 2010, while his direct appeal was still pending. The Court stayed his Motion until the conclusion of the direct appeal. Upon conclusion of the appellate proceedings, the Court lifted the stay and denied the § 2255 Motion. A few years later the Federal Defender's office asked to be appointed to assess whether Mr. Lawrence would be eligible for a reduction in sentence in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). On March 29, 2016, Federal Defender Alison Guernsey moved to withdraw. In her Motion, she indicated, "Mr. Lawrence is aware that if he intends to proceed with a *pro se Johnson* petition he must seek permission to file a successive petition from the U.S. Court of Appeals for the Ninth Circuit and file the substantive petition before this Court by June 26, 2016." ECF No. 159.

On January 31, 2018, Mr. Lawrence filed a second § 2255 Motion asking this Court to address possible resentencing pursuant to *Johnson*. In his Motion he included a courtesy copy of his application for permission to file a successive § 2255 Motion. Mr. Lawrence has not received permission to file a second § 2255 from the Ninth Circuit. Also, his § 2255

1 Motion was filed a year and a half after the deadline Ms. Guernsey had discussed with him.
2 As this Court has no authority to address a successive § 2255 Motion without authorization
3 from the Ninth Circuit, Mr. Lawrence's Motion is denied as moot. If the Ninth Circuit grants
4 the application for a second § 2255, the Court will reopen consideration of the Motion.

5 The Court has reviewed the file and Movant's Motion and is fully informed.
6 Accordingly,

7 **IT IS ORDERED** that Mr. Lawrence's Motion to Vacate, Set Aside or Correct
8 Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. § 2255, filed January 31,
9 2018, **ECF No. 164**, is **DENIED AS MOOT**.

10 The District Court Executive is directed to:

- 11 • File this Order,
- 12 • Provide copies to counsel and *pro se* Movant
- 13 • **CLOSE** the corresponding civil file, 2:18-CV-0038-WFN.

14 **DATED** this 27th day of February, 2020.

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16 _____
17 WM. FREMMING NIELSEN
18 SENIOR UNITED STATES DISTRICT JUDGE

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